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KECK, MAHIN & CATE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

1201 NEW YORK AVENUE, N.W.

WASHINGTON, D.C. 20005-3919

(202) 789-3400

FACSIMILE (202) 789-1158

8300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO, ILLINOIS 60606-6589
(312) 876-3400

FACSIMILE (312) 876-3582
TELEX 25-3411

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October 1, 1992

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KECK MAHIN CATE & KOETHER
NEW YORK, NEW YORK
FAR HILLS, NEW JERSEY

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

**EX PARTE
PRESENTATION**

Re: *Billed Party Preference for 0 +
InterLATA Calls (0 + Proprietary
Cards), CC Docket No. 92-77*

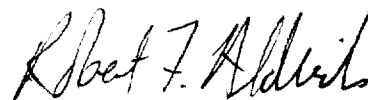
Dear Ms. Searcy:

Pursuant to 47 CFR § 1.1206(a), we hereby submit information regarding an ex parte presentation on behalf of the American Public Communications Council ("APCC") in the above-referenced docket.

On September 30, 1992, Albert Kramer and Robert F. Aldrich, both of Keck, Mahin & Cate, had a meeting with Commissioner Ervin Duggan and his advisor, Linda Oliver.

We discussed various issues concerning validation of interexchange carrier-issued "proprietary" calling cards, which are addressed in APCC's filings in this docket. The gist of APCC's presentation is described in the enclosed documents.

Sincerely,



Robert F. Aldrich

Enclosure

cc: Ervin Duggan
Linda Oliver

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APCC'S PROPOSAL

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THE COMMISSION SHOULD GIVE AT&T AND OTHER IXCS A CHOICE:

1. AN IXC MAY ISSUE A PROPRIETARY CARD
 - CAN BE VALIDATED ONLY BY THE ISSUING IXC
- OR 2. AN IXC MAY ISSUE A TRULY UNIVERSAL CARD
 - CAN BE VALIDATED BY ANY INTRALATA OR INTERLATA CARRIER UNDER NONDISCRIMINATORY TERMS AND CONDITIONS
- BUT 3. AN IXC MAY NOT ISSUE A HYBRID "SOMETIMES UNIVERSAL, SOMETIMES PROPRIETARY" CARD
 - IF AN IXC VALIDATES ITS CARDS FOR LECS CARRYING INTRALATA CALLS, THE IXC MAY NOT REFUSE TO VALIDATE ITS CARDS FOR OTHER CARRIERS
- SO 4. AT&T MUST STOP ITS CURRENT SELECTIVE HYBRID (#3) VALIDATION PRACTICES, AND MUST CHOOSE TO MAKE ITS CIID CARDS EITHER TRULY UNIVERSAL (#1) OR TRULY PROPRIETARY (#2)
- THUS 5. THE COMMISSION SHOULD RULE THAT:

IF AT&T CONTINUES TO MAKE VALIDATION OF ITS CIID CARDS AVAILABLE TO LECS, THEN AT&T MUST MAKE AVAILABLE TO ALL IXCS AND OSPS VALIDATION FOR ALL CALLS WITHIN THE COMMISSION'S JURISDICTION. HOWEVER, AT&T SHOULD BE ALLOWED TO CHOOSE TO HAVE A TRULY PROPRIETARY CARD BY DISCONTINUING VALIDATION FOR THE LECS.

EX PARTE PRESENTATION

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ADVANTAGES OF APCC'S PROPOSAL

1. CONSUMERS WILL KNOW WHERE THEY STAND. THOSE WHO WANT A UNIVERSAL CARD CAN HAVE A TRULY UNIVERSAL CARD, SUCH AS A LEC CARD (OR AN IXC-ISSUED UNIVERSAL CARD), WHILE THOSE WHO WANT A PROPRIETARY CARD CAN HAVE A TRULY PROPRIETARY CARD. CONSUMERS WILL NO LONGER BE MISLED BY CARDS THAT PRETEND TO BE ALL THINGS TO ALL PEOPLE, THEREBY GENERATING FRUSTRATION AND COMPLAINTS.
2. AT&T HAS AN INCENTIVE TO EDUCATE ITS CONSUMERS PROPERLY ON HOW TO USE ITS CARD. THERE IS NO NEED TO PRESCRIBE RULES OR TO MONITOR AT&T'S EFFORTS.
3. LECS HAVE AN INCENTIVE TO PROMOTE THEIR OWN CALLING CARDS, INSTEAD OF GETTING A "FREE RIDE" ON AT&T'S CIID CARD UNDER THE CURRENT "MARKET DIVISION" BETWEEN AT&T AND THE LECS. (BY VALIDATING ITS CARD FOR LECS, AT&T IS NOT COMPETING AT THE INTRALATA LEVEL EVEN WHERE COMPETITION IS ALLOWED.) BECAUSE LEC CALLING CARDS ARE UNIVERSAL CARDS, LEC PROMOTION OF THEIR CALLING CARDS STIMULATES IXC COMPETITION.
4. THE WORST COMPETITIVE ABUSES OF CALLING CARDS ARE ELIMINATED. AN IXC CAN HAVE PROPRIETARY CARDS WHICH ARE USED ONLY FOR THE IXC'S SERVICES. HOWEVER, AN IXC CANNOT EMPLOY SELECTIVE, DISCRIMINATORY VALIDATION PRACTICES THAT SEEK TO GAIN MARKET SHARE BY GENERATING CONSUMER FRUSTRATION AND COMPLAINTS. (THE COMMISSION MAY CHOOSE TO ALLOW SHARING WITH CERTAIN CARRIERS IN LIMITED SITUATIONS, E.G., AIRFONE, WHERE ACCESS CODE UNBLOCKING REQUIREMENTS HAVE NOT BEEN APPLIED.)
5. APCC'S SOLUTION IS CLEAN AND FREE OF UNNECESSARY REGULATION. THE FCC DOES NOT HAVE TO ENGAGE IN DETAILED PRESCRIPTION AND POLICING OF IXCS' CARD VALIDATION AND MARKETING PRACTICES. THE FCC SETS BASIC GROUND RULES AND LETS MARKETPLACE INCENTIVES DO THE REST.

INTERSTATE EFFECTS OF AT&T'S LECS-ONLY VALIDATION PRACTICES

THE ROOT OF THE CIID CARD PROBLEM IS THAT, BY VALIDATING ITS "PROPRIETARY" CIID CARD FOR LECS ON INTRALATA 0+ CALLS, AT&T ENCOURAGES CONSUMERS TO BELIEVE THEIR CIID CARDS ARE REALLY "UNIVERSAL" -- GOOD EVERYWHERE FOR 0+ DIALING FOR ALL CALLS. MEANWHILE, AT&T REFUSES VALIDATION TO ALL NON-DOMINANT CARRIERS FOR INTRALATA OR INTERLATA CALLS. THIS CAUSES MANY NEGATIVE EFFECTS ON INTERSTATE COMMUNICATIONS.

1. CONSUMERS ARE CONFUSED AND FRUSTRATED IN MAKING INTERSTATE CALLS
 - AT TELEPHONES PRESUBSCRIBED TO OTHER CARRIERS, WHERE CIID CARDS CAN'T BE VALIDATED WITH 0+ DIALING, CIID CARDHOLDERS ARE CONFUSED AND FRUSTRATED IN TRYING TO MAKE INTERSTATE CALLS.
 - FRUSTRATED CONSUMERS COMPLAIN TO THE FCC, AND PAYPHONES ARE BLAMED FOR CONSUMER INCONVENIENCE CAUSED BY AT&T.
 - LECS GET A FREE RIDE VIA THEIR AT&T CIID CARD VALIDATION PRIVILEGES. LECS HAVE NO INCENTIVE TO PROMOTE THEIR TRULY UNIVERSAL CALLING CARDS. CONSUMERS LOSE THE CONVENIENCE BENEFITS OF INTERSTATE CALLING WITH A TRULY UNIVERSAL CARD.
2. COMPETITION IN THE INTERSTATE OPERATOR SERVICES MARKET IS HARMED -- FRUSTRATED CIID CARDHOLDERS COMPLAIN TO THE LOCATION OWNER THAT THEY CANNOT USE THEIR CARDS TO DIAL 0+.
 - LOCATION OWNERS AND PAYPHONE PROVIDERS ARE UNFAIRLY PRESSURED TO PRESUBSCRIBE THEIR TELEPHONES TO AT&T FOR INTERLATA CALLS. ABUSE OF CONSUMERS RESULTS IN AN UNWARRANTED COMPETITIVE ADVANTAGE FOR AT&T.
 - LOCATION OWNERS ARE PRESSURED TO REPLACE INDEPENDENT PAYPHONES WITH LEC PAYPHONES, WHICH CAN BE USED FOR 0+ INTRALATA ACCESS WITH AT&T CIID CARDS. PAYPHONES ARE ACCESS POINTS TO THE INTERSTATE NETWORK. HARM TO PAYPHONE COMPETITION CRIPPLES INDEPENDENT PAYPHONE PROVIDERS' EFFORTS TO PROVIDE ALTERNATIVE ACCESS POINTS TO THE INTERSTATE NETWORK.
 - AT&T'S "SWEETHEART DEAL" WITH LECS TAKES AWAY LECS' INCENTIVE TO PROMOTE THEIR TRULY UNIVERSAL CALLING CARDS. WIDER ACCESS TO TRULY UNIVERSAL CARDS WILL STIMULATE INTERSTATE COMPETITION.